



4000-01-U

DEPARTMENT OF EDUCATION

34 CFR Chapter II

[Docket ID ED-2013-OESE-0159]

Final Priorities, Requirement, and Definitions; Innovative Approaches to Literacy (IAL) Program

[CFDA Number: 84.215G]

AGENCY: Office of Elementary and Secondary Education, Department of Education (Department).

ACTION: Final priorities, requirement, and definitions.

SUMMARY: The Assistant Secretary for Elementary and Secondary Education announces priorities, a requirement, and definitions under the IAL program. The Assistant Secretary may use one or more of the priorities, requirement, and definitions for competitions in fiscal year (FY) 2014 and later years. We take this action to ensure IAL projects are supported, at a minimum, by evidence of strong theory, and to focus Federal financial assistance on projects that serve rural local educational agencies (LEAs).

EFFECTIVE DATE: These priorities, requirement, and definitions are effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: David Moore Miller, U.S.

Department of Education, 400 Maryland Avenue, SW., room 3E235, Washington, DC 20202-6200. Telephone: (202) 453-5621 or by email: david.miller@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Purpose of Program: The purpose of the IAL program is to support high-quality projects designed to develop and improve literacy skills for children and students from birth through 12th grade within the attendance boundaries of high-need LEAs and schools.

Program Authority: 20 U.S.C. 7243-7243b.

We published a notice of proposed priorities, requirement, and definitions for this program in the Federal Register on February 28, 2014 (79 FR 11363). That notice contained background information and our reasons for proposing the particular priorities, requirement, and definitions.

There are differences between the proposed priorities, requirement, and definitions and these final priorities, requirement, and definitions as discussed in the Analysis of Comments and Changes section elsewhere in this notice.

Public Comment: In response to our invitation in the

notice of proposed priorities, requirement, and definitions, nine parties submitted comments on the proposed priorities, requirement, and definitions.

We group major issues according to subject. Generally, we do not address technical and other minor changes.

Analysis of Comments and Changes: An analysis of the comments and of any changes in the priorities, requirement, and definitions since publication of the notice of proposed priorities, requirement, and definitions follows.

Priorities

Comment: One commenter recommended that we amend proposed priority 1 to require, as a minimum level of evidence, that projects be supported by evidence of promise rather than strong theory. The commenter explained that the strong theory level of evidence proposed in priority 1 appears to set a lower standard of evidence than was used in the previous competition, which required applicants to cite at least one study in support of the proposed project that meets the definition of "scientifically valid research." The commenter also recommended that the Department look for stronger standards of evidence for all applicants.

Discussion: We agree with the commenter that the Department should encourage the use of strong standards of

evidence in general. Because we found the term imprecise, we do not refer to "scientifically based research" in the priority. While an applicant to this program would now only need to provide evidence of strong theory in support of its proposed project, we think that this approach prepares the applicant to thoughtfully and successfully implement its project. Setting the minimum requirement of evidence at the strong theory level also allows for the most innovative project proposals because applicants are not restricted by a higher standard of evidence that would require some degree of replication of a previously executed approach.

Through selection criteria in 34 CFR 75.210, the Department can encourage the applicant to design a project evaluation that may help build on the level of evidence available for future projects. For example, if a project that uses strong theory is successful, the evaluation report that a grantee will prepare, as outlined in the selection criteria, could serve as sufficient evidence of promise for applicants to cite in support of future proposals. We take this approach in order to empower applicants to propose innovative ideas that, if successful, will broaden the base of available evidence in the field.

Changes: None.

Comment: One commenter asked that we identify each proposed priority as absolute, competitive, or invitational.

Discussion: We appreciate the commenter's interest in learning the type of priorities that will be assigned in upcoming competitions. It is our practice, however, to specify the priority types for each competition in the notice inviting applications, not in a notice of proposed priorities or a notice of final priorities.

Changes: None.

Eligibility

Comment: One commenter recommended including as an eligible entity a regional education service agency (RESA), as defined by the National Center for Education Statistics. The commenter noted that in many locations, these agencies act as intermediary agents between education departments and high-need rural LEAs that may otherwise lack capacity to apply for Federal grants.

Discussion: We appreciate the commenter's recommendation to include RESAs and other intermediary agencies as eligible applicants for this program; however, such entities generally already meet the definition of LEA included in the Elementary and Secondary Education Act of 1965, as amended (ESEA). Section 9101(26)(A) of the ESEA

defines an "LEA" as an entity that is recognized in a State as an administrative agency for its public elementary schools or secondary schools, and section 9101(26)(D) of the ESEA specifically includes educational service agencies and consortia of those agencies under the term "LEA."

Changes: None.

Comment: Two commenters recommended expanding the eligibility requirement to include high-need populations that are not served by high-need LEAs. One noted that some preschool sites served by national not-for-profit organizations (NNPs) may not fall within the attendance boundaries of a high-need LEA, yet may still be serving high-need children. The other commenter recommended including low-performing and unaccredited districts as eligible entities, and also expanding the target population to include students of families with incomes below the poverty line, but who attend schools in LEAs that do not meet the threshold of 25 percent of students from families with incomes below the poverty line.

Discussion: We appreciate the commenters' recommendations to consider expanding eligibility and the target population served. However, the Department must focus its limited resources on the areas of highest need. The eligibility requirement we have established is designed to ensure that

IAL funds will reach those communities most in need.

Changes: None.

Comment: One commenter recommended that we provide additional guidance regarding acceptable Census Bureau data sets for determining high-need LEAs, noting that the Census Bureau's Small Area Income and Poverty Estimates (SAIPE) data set does not include children from birth through age four in its school district poverty estimates. The commenter also noted that the Census Bureau's American Community Survey (ACS) data set includes family poverty information for students birth through age four.

Discussion: We appreciate the commenter's recommendation for clarification concerning the acceptable Census Bureau data set for determining target population eligibility. Although we recognize that the SAIPE for school districts lacks specific information for children under age five, at this time SAIPE are the most satisfactory data available from the U.S. Census Bureau for the purposes of this program.

While we agree that poverty data for birth through age four would be useful for determining eligibility for this program, the Census Bureau's model-based SAIPE data provide single-year estimates for students aged 5-17 that are more reflective of current conditions than are the multi-year

survey estimates provided by ACS data. That is, SAIPE methodology combines ACS estimates with other data sources to provide more timely, precise, and stable estimates than the five-year ACS estimates alone. Significantly, SAIPE data incorporate "grade relevance," whereas ACS estimates do not. For areas with small populations, SAIPE data contain less uncertainty and have lower error variance than ACS estimates. SAIPE data therefore provide more accurate representations of student poverty information than ACS data.

A list of high-need LEAs, by State, that are eligible for IAL funding in FY 2014 will be available at the program Web site (<http://www2.ed.gov/programs/innovapproaches-literacy/index.html>) when this notice and the notice inviting applications are published.

Although we do not support using a different source of data for determining eligibility under this program, we do believe a modification to the definition of "high-need LEA" is appropriate. In order to ensure the definition of "high-need LEA" is consistent with the SAIPE data used to determine eligibility, we believe that we should change the reference from "geographic area" to "school attendance area" and adjust the age range from 0-17 to 5-17.

Also, we note that SAIPE are data used under section

1124(c)(3) of Title I of the ESEA for the purpose of making allocations and that not all LEAs are listed on the Census Bureau's lists. Therefore, we also clarify that States determine eligibility status for LEAs that are not listed with SAIPE data (e.g., charter school LEAs, State-administered schools, and regional service agencies), and we provide information about how States may verify the eligibility of such LEAs.

Changes: We have revised the definition of a "high-need LEA." Under the revised definition, a "high-need LEA" is one in which at least 25 percent of the students aged 5-17 in the "school attendance area" of the LEA (rather than "geographic area") are from families with incomes below the poverty line based on the U.S. Census Bureau's Small Area Income and Poverty Estimates for school districts for the most recent income year (Census list). In addition, we added language to the definition of a "high-need LEA" addressing how to determine if an LEA that is not on the Census list, such as a charter school LEA, is a "high-need LEA." Such an LEA is considered a "high-need LEA" if the State educational agency (SEA) determines, consistent with the manner in which the SEA determines an LEA's eligibility for Title I allocations, that 25 percent of the students aged 5-17 in the LEA are from families with incomes below

the poverty line.

Also, based on the revised definition of "high-need LEA," we have made a corresponding technical change to Proposed Priority 1 to delete the phrase "within attendance boundaries" because the revised definition of "high-need LEA" now contemplates LEAs (such as charter school LEAs) that may draw students from beyond attendance boundaries.

Reporting

Comment: One commenter recommended broadening the Government Performance and Results Act of 1993 (GPRA) measures to include reporting on children birth through 12th grade, noting that the current measures exclude reporting for children younger than age four, students who are in kindergarten, and students in grades four and five.

Discussion: We appreciate the commenter's recommendation to broaden GPRA reporting measures for this program. However, we intend the GPRA measures for this program to provide an overview of program performance rather than to assess performance at the level of each age or grade-level served. Given the variety of projects possible under this program, we believe that applicants are best equipped to develop detailed performance measures that address the goals and objectives unique to individual projects. We note that although GPRA reporting is not required for

projects to which GPRA reporting measures do not apply, the Department will be able to collect data on progress for children younger than age four, students in kindergarten, and students in grades four and five from project-specific performance measures developed as part of the grantees' local evaluation design.

Changes: None.

General

Comment: One commenter recommended that the onus to coordinate with school libraries should be placed on LEAs and NNPs, rather than requiring school libraries to coordinate with LEAs and NNPs. The commenter indicated that this change would ensure better consistency with the guiding language from S. Rep. 113-17 and the Federal grantmaking process.

Discussion: We agree that placing the onus on LEAs and NNPs, rather than on school libraries, to coordinate resources in developing IAL proposals will ensure better consistency with the cited report language and the Federal grantmaking process.

Changes: We have revised the eligibility requirement by adding language to indicate that LEAs and NNPs must coordinate with school libraries in developing project proposals.

Comment: One commenter recommended that current IAL grantees who apply for IAL funds in future competitions should be permitted to continue serving the same populations.

Discussion: We appreciate the commenter's recommendation. However, proposing to serve the same populations that were served in a previous award is already allowable and does not disqualify an applicant from receiving funds in a new award, provided the applicant meets the eligibility requirements of the program.

Changes: None.

Comment: One commenter asked that funding be directed toward initiatives that include cross-sector literacy and parental engagement programs, as well as those operating outside of traditional education settings, including within the healthcare infrastructure.

Discussion: We appreciate the commenter's recommendation that we direct funding toward cross-sector and non-traditional settings; however, the types of projects the commenter described are already possible under this program because there are no limitations on the locations at which services can be provided or the partners a grantee may choose. Additionally, we do not want to specify in this manner the types of projects that an applicant may propose,

as we wish to maximize flexibility for applicants seeking to develop innovative project proposals.

Changes: None.

FINAL PRIORITIES:

Final Priority 1--High-quality plan for innovative approaches to literacy that include book distribution, childhood literacy activities, or both, and that is supported, at a minimum, by evidence of strong theory (as defined in 34 CFR 77.1(c)).

To meet this priority, applicants must submit a plan that is supported by evidence of strong theory, including a rationale for the proposed process, product, strategy, or practice and a corresponding logic model (as defined in 34 CFR 77.1(c)).

The applicant must submit a plan with the following information:

(a) a description of the proposed book distribution, childhood literacy activities, or both, that are designed to improve the literacy skills of children and students by one or more of the following--

- (1) promoting early literacy and preparing young children to read;
- (2) developing and improving students' reading ability;

(3) motivating older children to read; and

(4) teaching children and students to read.

(b) the age or grade spans of children and students from birth through 12th grade to be served.

(c) a detailed description of the key goals, the activities to be undertaken, the rationale for those activities, the timeline, the parties responsible for implementing the activities, and the credibility of the plan (as judged, in part, by the information submitted as evidence of strong theory); and

(d)(i) a description of how the proposed project is supported by strong theory; and

(ii) the corresponding logic model (as defined in 34 CFR 77.1(c)).

Final Priority 2--Serving Rural LEAs

To meet this priority, an applicant must propose a project designed to provide high-quality literacy programming, or distribute books, or both, to students served by a rural LEA (as defined in this notice).

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the Federal Register. The effect of

each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

FINAL REQUIREMENT:

The Assistant Secretary for Elementary and Secondary Education establishes the following requirement for this program. We may apply this requirement in any year in which this program is in effect.

Eligibility: To be considered for an award under this competition, an applicant must:

- (a) Be one of the following:

- (1) A high-need LEA (as defined in this notice);
 - (2) An NNP (as defined in this notice) that serves children and students within the attendance boundaries of one or more high-need LEAs;
 - (3) A consortium of NNPs that serves children and students within the attendance boundaries of one or more high-need LEAs;
 - (4) A consortium of high-need LEAs; or
 - (5) A consortium of one or more high-need LEAs and one or more NNPs that serve children and students within the attendance boundaries of one or more high-need LEAs.
- (b) Coordinate with school libraries in developing project proposals.

FINAL DEFINITIONS:

The Assistant Secretary for Elementary and Secondary Education establishes the following definitions for this program. We may apply one or more of these definitions in any year in which this program is in effect:

College- and career-ready standards means content standards for kindergarten through 12th grade that build towards college and career readiness by the time of high school graduation. A State's college- and career-ready standards must be either (1) standards that are common to a significant number of States; or (2) standards that are

approved by a State network of institutions of higher education, which must certify that students who meet the standards will not need remedial course work at the postsecondary level.

Comprehensive statewide literacy plan means a plan (which may be a component or modification of the plan submitted under the Striving Readers Comprehensive Literacy formula grant program, CFDA 84.371B) that addresses the literacy and language needs of children from birth through 12th grade, including English learners and students with disabilities; aligns literacy policies, resources, and practices; contains clear instructional goals; and sets high expectations for all students and student subgroups.

High-need local educational agency (High-need LEA) means--

(i) Except for LEAs referenced in paragraph (ii), an LEA in which at least 25 percent of the students aged 5-17 in the school attendance area of the LEA are from families with incomes below the poverty line, based on data from the U.S. Census Bureau's Small Area Income and Poverty Estimates for school districts for the most recent income year (Census list).

(ii) For an LEA that is not included on the Census list, such as a charter school LEA, an LEA for which the

State educational agency (SEA) determines, consistent with the manner described under section 1124(c) of the ESEA in which the SEA determines an LEA's eligibility for Title I allocations, that 25 percent of the students aged 5-17 in the LEA are from families with incomes below the poverty line.

National not-for-profit (NNP) organization means an agency, organization, or institution owned and operated by one or more corporations or associations whose net earnings do not benefit, and cannot lawfully benefit, any private shareholder or entity. In addition, it means, for the purposes of this program, an organization of national scope that is supported by staff or affiliates at the State and local levels, who may include volunteers, and that has a demonstrated history of effectively developing and implementing literacy activities.

Note: A local affiliate of an NNP does not meet the definition of NNP. Only a national agency, organization, or institution is eligible to apply as an NNP.

Rural local educational agency (Rural LEA) means an LEA that is eligible under the Small Rural School Achievement program (SRSA) or the Rural and Low-Income School (RLIS) program authorized under Title VI, Part B of the ESEA at the time of application.

Universal design for learning (UDL) means a scientifically valid framework for guiding educational practice that (i) provides flexibility in the ways information is presented, in the ways students respond or demonstrate knowledge and skills, and in the ways students are engaged; and (ii) reduces barriers in instruction, provides appropriate accommodations, supports, and challenges, and maintains high achievement expectations for all students, including students with disabilities and students who are English learners.

This notice does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use one or more of these priorities, requirement, and definitions, we invite applications through a notice in the Federal Register.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by the Office of

Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may--

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and

definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account--among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing these final priorities, requirement, and definitions only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from

statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the program contact person listed under FOR FURTHER INFORMATION CONTACT.

Electronic Access to This Document: The official version of this document is the document published in the Federal Register. Free Internet access to the official edition of the Federal Register and the Code of Federal Regulations is available via the Federal Digital System at: www.gpo.gov/fdsys. At this site you can view this document, as well as all other documents of this Department

published in the Federal Register, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the Federal Register by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: June 11, 2014

Deborah Delisle,
Assistant Secretary for Elementary
and Secondary Education.

[FR Doc. 2014-14047 Filed
06/16/2014 at 8:45 am; Publication
Date: 06/17/2014]